

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

IN RE:

STEPHANIE ROBIN NOVACK FKA STEPHANIE NOVACK
LAMARCHE
Debtor

BCN #: 19-71204-SCS
Chapter: 7

NOTICE OF MOTION AND HEARING

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on this motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 600 Granby Street, Norfolk, VA 23510, and serve a copy on the Movant. Unless a written response is filed and served within this fourteen day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an Order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fourteen day period.

You may attend the preliminary hearing scheduled to be held on: May 23, 2019 at 9:30 AM in Courtroom 1, 4th Floor, United States Bankruptcy Court, 600 Granby Street, Norfolk, VA 23510.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an Order granting the requested relief.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: April 23, 2019

/s/ Mary F. Balthasar Lake
BY: Gregory N. Britto, Esquire, VSB #23476
William M. Savage, Esquire, VSB #26155
Malcolm B. Savage, III, Esquire, VSB #91050
Thomas J. Gartner, Esquire, VSB #79340
Mary F. Balthasar Lake, Esquire, VSB #34899
Renee Dyson, Esquire, VSB #93282
SHAPIRO & BROWN, LLP
501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320
(703) 449-5800
VABECF@logs.com

CERTIFICATE OF SERVICE

I certify that I have this 23rd day of April, 2019, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion to the following:

Genene E. Gardner
The Merna Law Group
3419 Virginia Beach Blvd., #236
Virginia Beach, VA 23452

Tom C. Smith, Jr.
P.O. Box 1506
Virginia Beach, VA 23451

Stephanie Robin Novack
309 South Broad Street
Suffolk, VA 23434

/s/ Mary F. Balthasar Lake
Gregory N. Britto, Esquire, VSB #23476
William M. Savage, Esquire, VSB #26155
Malcolm B. Savage, III, Esquire, VSB #91050
Thomas J. Gartner, Esquire, VSB #79340
Mary F. Balthasar Lake, Esquire, VSB #34899
Renee Dyson, Esquire, VSB #93282

United States Bankruptcy Court
Eastern District of Virginia
Norfolk Division

In Re:

Stephanie Robin Novack fka Stephanie
Novack LaMarche
Debtor

Nationstar Mortgage LLC d/b/a Mr. Cooper
Movant/Secured Creditor,

v.

Stephanie Robin Novack fka Stephanie Novack
LaMarche

Debtor

and

Tom C. Smith, Jr.
Trustee
Respondents

BCN#: 19-71204-SCS

Chapter: 7

Motion for Order Granting Relief from
Automatic Stay under 11 USC §362

Nationstar Mortgage LLC d/b/a Mr. Cooper, alleges as follows:

1. The bankruptcy court has jurisdiction over this contested matter pursuant to 28 U.S.C. § 157 and § 1334 and 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014; and Local Bankruptcy Rule 4001(a)-1.

2. The above named Debtor filed a Chapter 7 Petition in Bankruptcy with this Court on March 30, 2019.

3. Tom C. Smith, Jr. has been appointed by this Court as the Chapter 7 Trustee in this instant Bankruptcy proceeding.

4. Movant, Nationstar Mortgage LLC d/b/a Mr. Cooper, is the current holder of the Subject Note secured by the subject Deed of Trust. The original Deed of Trust holder was OVM Financial, Inc., with Mortgage Electronic Registration Systems, Inc., as beneficiary, solely as nominee for the Lender. The beneficial interest in the aforesaid Deed of Trust has been assigned to the Movant as evidenced by the Assignment dated April 11, 2019. The Note was originated by OVM Financial, Inc. who endorsed the Note to Pacific Union Financial, LLC via Allonge, who endorsed the Note in blank. Nationstar Mortgage LLC d/b/a Mr. Cooper has possession of S&B# 19-281376

the original Note. A copy of the Assignment, Deed of Trust, and Note are attached hereto and incorporated herein by reference.

5. The subject Deed of Trust secures a parcel of real property (hereinafter "the Property") with the address of 309 South Broad Street, Suffolk, VA 23434 and more particularly described in the Deed of Trust dated June 27, 2017 and recorded as Deed Instrument Number 170007209 among the land records of the said city/county, as:

All that certain lot, piece or parcel of land, situated in the City of Suffolk, Virginia, fronting on the West side of Broad Street, and known, numbered and designated on the plan or plat of "The Consolidated Realty Corporation, formerly Montrose Land and Improvement Company" duly of record in the Clerk's Office of the Circuit Court of the City of Suffolk (formerly Nansemond County), Virginia, in Deed Book 34, Page 205, as Lot Number Five (5) in Block 'O', fronting Fifty (50) feet on the West side of Broad Street and running back therefrom between parallel lines in a Westerly direction One Hundred Fifty (150) feet; said lot is bounded on the East by Broad Street; on the North by Lot Number Four (4) in said Block 'O'; on the West by Lot Number Thirteen (13) in said Block 'O'; and on the South by Lot Number Six (6) in said Block 'O', together with all and singular the appurtenances belonging to the same.

6. Movant is informed and believes, and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of the Debtor.

7. Movant is informed and believes that the Debtor intends to Surrender the property based upon the Statement of Intentions filed March 30, 2019.

8. The Debtor is in default with regard to payments which have become due under the terms of the Note and Deed of Trust.

As of April 2, 2019, the Debtor is due for:

- o 1 monthly payment for February 2019 of \$1,697.37 which was to be paid directly to Movant;
- o 2 monthly payments from March 2019 through April 2019 of \$1,642.43 each which were to be paid directly to Movant;
- o Bankruptcy Fees of \$750.00
- o Bankruptcy Costs of \$181.00
- o Total of \$5,913.23

9. As of April 2, 2019, the unpaid principal balance on the said note is \$234,413.24.

10. Movant has elected to initiate foreclosure proceedings on the Property with respect to the subject Trust Deed, but is prevented by the Automatic Stay from going forward with these proceedings.

11. Movant is informed and believes, and, based upon such information and belief, alleges that the Debtor has little or no equity in the property.

12. Continuation of the automatic stay of 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 due to the aforementioned facts.

13. That the Movant has requested that the Court hear this matter on May 23, 2019 at 9:30 AM.

WHEREFORE, Movant prays for an order granting relief from the Automatic Stay in order to pursue its remedies under the terms of its Note and Deed of Trust, that the fourteen (14) day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, for its attorneys fees' and costs expended, and for such other and further relief as the Court and equity deem appropriate.

SHAPIRO & BROWN, LLP
ATTORNEYS FOR THE MOVANT

Dated: April 23, 2019

/s/ Mary F. Balthasar Lake
BY: Gregory N. Britto, Esquire
VSB #23476
William M. Savage, Esquire
VSB #26155
Malcolm B. Savage, III, Esquire
VSB #91050
Thomas J. Gartner, Esquire
VSB #79340
Mary F. Balthasar Lake, Esquire
VSB #34899
Renee Dyson, Esquire
VSB #93282
SHAPIRO & BROWN, LLP
501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320
(703) 449-5800
VABECF@logs.com

Certificate of Service

I certify that I have this 23rd day of April, 2019, electronically transmitted and/or mailed by first class mail, true copies of the Motion for Relief from the Automatic Stay and Notice of Motion and Hearing to each party required to receive notice.

Genene E. Gardner
The Merna Law Group
3419 Virginia Beach Blvd., #236
Virginia Beach, VA 23452

Tom C. Smith, Jr.
P.O. Box 1506
Virginia Beach, VA 23451

Stephanie Robin Novack
309 South Broad Street
Suffolk, VA 23434

/s/ Mary F. Balthasar Lake
Gregory N. Britto, Esquire
VSB #23476
William M. Savage, Esquire
VSB #26155
Malcolm B. Savage, III, Esquire
VSB #91050
Thomas J. Gartner, Esquire
VSB #79340
Mary F. Balthasar Lake, Esquire
VSB #34899
Renee Dyson, Esquire
VSB #93282